THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24712 OF 2006

Dated: 27th November, 2006.

Between :

A.P. Southern Power Distribution Company Limited, Nellore (Operation Circle), rep. by its Superintending Engineer. .. Petitioner

And

1. Government of India, rep. by its Secretary, Ministry of Labour & Employment, Sharma Shakthi Bhawan, New Delhi and 3 others. .. Respondents

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WRIT PETITION NO.24712 OF 2006

ORDER :

This writ petition is filed seeking a declaration that the proceedings of the 3rd respondent dated 29-5-2006 as well as the consequential prohibitory orders dated 17-10-2006 and 16-11-2006 passed under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 as arbitrary and illegal.

The proceedings dated 29-5-2006 were passed by the 3rd respondent under Sections 7-Q and 14-B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act') levying simple interest and damages for the belated payments of Provident Fund contributions. Admittedly, the said order is appealable under Section 7-I of the Act and it is stated by the petitioner that steps are being taken to prefer an Appeal.

The only grievance of the petitioner is that in the meanwhile the 3rd respondent is not justified in issuing the impugned prohibitory orders directing the State Bank of India to withhold the amounts from the petitioner's account and to remit the same to the 3rd respondent.

Having heard the learned counsel for both the parties and having regard to the facts and circumstances of the case, the Writ Petition is disposed of granting leave and liberty to the petitioner to prefer an appeal under Section 7-I of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 against the impugned order dated 29-5-2006. If any such appeal is filed within a period of four weeks

from the date of receipt of this order, the same shall be entertained and decided in accordance with law.

It is further made clear that the impugned prohibitory orders dated 17-10-2006 and 16-11-2006 shall stand set aside subject to the condition that the petitioner deposits half of the amount demanded under the proceedings dated 29-5-2006 within a period of two weeks from today. On such deposit, the respondents shall also not take any further coercive steps for recovery of the amounts demanded under the impugned proceedings dated 29-5-2006 till the Appeal under Section 7-I of the Act is decided.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 27-11-2006
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